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07 AUG - 2 AM 11:50

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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August 1, 2007

Mr. Steve Rosenbaum
Senior Engineering Geologist
Land Disposal Unit
Lower Sacramento River Watershed
11020 Sun Center Drive #200
Sacramento, CA 95670

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SUBJECT: Tentative Waste Discharge Requirements for Kirkwood Public Utility District,
Wastewater Treatment Plant, Amador County

Dear Mr. Rosenbaum:

The Central Valley Clean Water Association ("CVCWA") appreciates the opportunity to provide comments on the *Tentative Order for the Kirkwood Public Utility District Wastewater Treatment Plant* ("WWTP"), prepared by the Regional Water Quality Control Board ("Regional Board") staff. In particular, CVCWA is concerned with provisions contained in the Tentative Order regarding the wastewater collection system and the groundwater limitations. Our comments are as follows.

Wastewater Collection System

The Tentative Order contains several permit findings and permit requirements related to the PUD's sanitary sewer collection system. More specifically, provisions F.1.a. and F.1.d. are collection system requirements that duplicate or conflict with the State Water Resources Control Board's ("State Board") requirements as contained in the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems* ("General Order"). (See Order No. 2006-0003-DWQ.) The State Board's General Order applies to all federal and state agencies, municipalities, counties, districts and other public entities that operate sanitary sewer systems greater than one mile in length. (General Order at p. 1.) Kirkwood PUD owns and maintains approximately 8.3 miles of sewer lines and is therefore subject to the provisions of the General Order.

Under the General Order, Kirkwood PUD was required to apply for coverage under the General Order by the November 2, 2006. Subsequently, Kirkwood PUD is required to develop and submit various program elements pursuant to requirements in the General Order, including program elements that duplicate the study requirements contained in the Tentative Order.

CVCWA believes it is inappropriate to propose collection system permit provisions F.1.a. and F.1.d as they are outside of requirements contained in the General Order. Furthermore, CVCWA is concerned with the practical impact associated with duplicative permit requirements in two different permits. CVCWA and many others worked diligently with the State Board to develop a General Order that would protect water quality from sanitary sewer overflows while assuring statewide consistency. The State Board has confirmed that when renewing Waste Discharge Requirements for wastewater treatment facilities with associated collection systems, the Regional Boards should rely on the General Order. (Memorandum from Tom Howard to Regional Board Executive Officers, November 8, 2006.) In recent permit renewals, the Regional Board has followed the State Board guidance.¹ We are not aware of any basis for deviating from the State Board's recommended approach in this instance, and we urge the Board to remove the collection system requirements from the Tentative Order.

Groundwater Limitations

Section E of the Tentative Order contains ground water limitations for a number of constituents. The list of constituents includes numeric limitations for a number pollutants for which no adopted numeric water quality objectives exist. For example, there are groundwater limitations for bromoform, bromodichloromethane, chloroform and dibromochloromethane. These constituents are considered disinfection byproducts that are sometimes found in effluent disinfected with chlorine. However, the *Water Quality Control Plan for the Sacramento-San Joaquin River* (hereinafter referred to as "Basin Plan") does not contain numeric groundwater water quality objectives for these constituents. Furthermore, the Tentative Order provides no information, evidence or findings that indicate how or why the Regional Board has decided to impose these pollutant specific groundwater limitations. Finding 50 states that "[t]he Basin Plan requires that the Regional Water Board, on a case-by-case basis, follow specified procedures to determine maximum numerical limitations that apply the narrative objectives when it adopts waste discharge requirements." (Order at p. 11.) The Tentative Order is void of any information of the Regional Water Board's case-by-case analysis for the application of the groundwater limitations in question.

CVCWA contends that the groundwater limitations of the Tentative Order are not supported by the findings or logic within the findings. The Regional Board must support decisions with specific findings and must relate evidentiary findings to the ultimate order. In particular, the Regional Board must "set forth findings to bridge the analytical gap between raw evidence and the ultimate decision or order." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515; see also *In re Petition of the City and County of San Francisco, et al.*, SWRCB Order 95-4, 1995 WL 576920 at pp. 4-5.)

The Tentative Order does not satisfy these requirements. It does not, for example, explain why there are groundwater limitations for the constituents identified. It fails to explain how the Regional Board applied its Basin Plan policies to determine and select specific constituents. And,

¹ See, e.g. Order No. R5-2007-0070, County of Placer, which included the following Provision: "On May 2, 2006, the State Water Board adopted State Water Board Order 2006-0003, a Statewide General WDR for Sanitary Sewer Systems. The Discharger shall be subject to the requirements of Order 2006-0003 and any future revisions thereto. Order 2006-0003 requires that all public agencies that currently own or operate sanitary sewer systems apply for coverage under the General WDR by 2 November 2006. As required, the Discharger applied for coverage under State Water Board Order No. 2006-0003 for operation of its wastewater collection system."

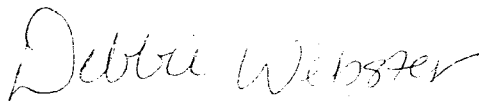
it fails to explain why the Regional Board staff proposes to use the numeric limitations identified for the constituents in question.

At most, one can infer from the Tentative Order that the Regional Board staff proposes to interpret its groundwater narrative objectives with the numeric criteria contained in the groundwater limitations section. This inference, however, does not provide adequate information as to how the Regional Board staff actually interpreted the narrative objectives. When evaluating compliance with narrative water quality objectives, the Regional Board is required to consider, "...on a case-by-case basis, direct evidence of beneficial use impacts, all material and relevant information submitted by the discharger and other interested parties, and relevant numerical criteria and guidelines developed and/or published by other agencies and organizations (e.g., State Water Board, California Department of Health Services, ...)." (Basin Plan at IV-7.00.) When conducting its case-by-case evaluation, the Regional Board is required to evaluate "[w]hether specific numerical criteria, which are available through other sources and through other information supplied to the Board, are relevant and appropriate to the situation at hand and, therefore should be used in determining compliance with the narrative objective." (*Id.*) As mentioned previously, the Tentative Order is void of any such information regarding the case-by-case evaluation conducted by the Regional Board staff, presuming that such an analysis was conducted.

To rectify this substantive error with the Tentative Order, CVCWA encourages the Regional Board to either remove the groundwater limitations for the individual constituents as currently expressed, or revise the Tentative Order to include specific findings that clearly articulate the Regional Board staff's thought process for including constituent specific numeric limitations.

If you have any questions regarding our comments, please do not hesitate to contact me at (877) 282-9285.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Webster".

Debbie Webster, Executive Officer